

1 PAUL K. CHARLTON  
United States Attorney

2 STEPHEN J. SCHAEFFER  
3 Trial Attorney, Tax Division  
4 United States Department of Justice  
Post Office Box 7238, Ben Franklin Station  
Washington, D.C. 20044  
5 Missouri Bar #56833  
Telephone: (202) 307-2240  
6 Fax: (202) 514-6770

7 Attorneys for Plaintiff United States of America

8  
9 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA  
10 PHOENIX DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 BEVERLY J. HILL and  
15 DARRELL J. HILL,  
individually and doing business as  
SUPERIOR CLAIMS MANAGEMENT,

16 Defendants.  
17

CV '05 0877 PHX DGC  
No.

COMPLAINT FOR  
PERMANENT INJUNCTION  
AND OTHER RELIEF

18 The plaintiff, the United States of America, complains and alleges against the  
19 defendants, Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior  
20 Claims Management, as follows:

21 1. This is a civil action brought by the United States pursuant to sections 7402(a),  
22 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) ("I.R.C.") to restrain and enjoin  
23 the defendants, Beverly J. Hill and Darrell J. Hill, and all those in active concert or  
24 participation with them from:

- 25 (a) Acting as a federal tax return preparer or requesting, assisting in or  
26 directing the preparation and/or filing of federal tax returns for any  
27 person or entity other than themselves, or appearing as a  
28 representative on behalf of any person or organization whose tax  
liabilities are under examination or investigation by the Internal  
Revenue Service;

FILED	LODGED
RECEIVED	COPY
MAR 23 2005	
CLERK U S DISTRICT COURT	
DISTRICT OF ARIZONA	
BY	DEPUTY

- 1 (b) Understating customers' tax liabilities as penalized by I.R.C. § 6694;  
2 (c) Failing to list a tax identification number or to sign tax returns for  
3 which either defendant is a tax-return preparer as penalized by I.R.C.  
4 § 6695;  
5 (d) Engaging in activity subject to penalty under I.R.C. § 6701,  
6 including preparing or assisting in the preparation of a document  
7 related to a matter material to the internal revenue laws that includes  
8 a position that they know would result in an understatement of  
9 another person's tax liability; and  
10 (e) Engaging in other conduct that interferes with the administration and  
11 enforcement of the internal revenue laws.

### 12 Jurisdiction

13 2. This action has been authorized and requested by the Chief Counsel of the  
14 Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at  
15 the direction of a delegate of the Attorney General of the United States, pursuant to the  
16 provisions of I.R.C. §§ 7402, 7407, and 7408.

17 3. Jurisdiction is conferred on this Court by Sections 1340 and 1345 of Title 28,  
18 United States Code, and I.R.C. §§ 7402(a), 7407, and 7408.

### 19 Defendants

20 4. Defendants Beverly J. Hill and Darrell J. Hill, a married couple, reside in Mesa,  
21 Arizona, within this judicial district.

22 5. Beverly J. Hill and Darrell J. Hill registered Superior Claims Management as a  
23 trade name with the Arizona Secretary of State. The state lists them as owners of the  
24 trade name.  
25  
26  
27  
28

**Defendants' activities**

6. Defendants, operating under the business name of Superior Claims Management, prepare and file frivolous federal income tax returns or claims for refund for others.

7. They falsely advertise on their website, [www.getmytaxesback.com](http://www.getmytaxesback.com), that "wage earnings are not 'taxable profit'" and that most citizens have been overpaying taxes their entire lives. They fraudulently boast that they can "put your past taxes in your bank" by filing returns that reduce reported income to zero.

8. Defendants have prepared and filed with the IRS at least 253 customer federal income tax returns since 2002 that fail to include wage income reported on information returns, such as Form W-2. The last known such return was filed in November 2004. The returns fraudulently request refunds of over \$1.2 million in total.

9. Defendants attach a five- or six-page supplement to each tax return that sets forth out-of context quotations from various state and federal court cases to assert falsely that wage income does not fall under the definition of income that is taxable under the Internal Revenue Code. In particular, the supplement stated, "The Supreme Court of the United States had already established that my wages for my labor was/ and is not income!"

10. Defendants improperly sign their names on their customers' returns in lieu of their customers' signatures and attach an executed power of attorney to the return. Defendants fail to complete the information required of preparers on the tax forms, including listing their or their trade name as preparer and listing their taxpayer ID.

11. Defendants charge their customers 25% of any tax refund paid to the customers.

12. The IRS has thus far discovered 253 fraudulent returns prepared and filed by defendants, and 21 refunds that have been erroneously issued based on fraudulent returns

1 and claims prepared and filed by the defendants. The approximate total of these  
2 erroneous refunds is \$200,000.

### 3 **Harm to the public**

4 13. Defendants' preparation of false and fraudulent tax returns, to the extent that  
5 the IRS does not detect them and issues erroneous refunds, has resulted in customers  
6 receiving substantial tax refunds to which they are not legally entitled. The average tax  
7 refund requested on the 253 returns discovered by the IRS is over \$4,700.

8 14. The United States is harmed because defendants' customers are not reporting  
9 and paying their correct tax liabilities. Although the IRS has not issued most of the  
10 refunds requested by the Hills, it has issued at least 21 erroneous refunds for an  
11 approximate total of \$200,000. The taxes requested by all returns detected by the IRS is  
12 over \$1.2 million.

13 15. The United States is also harmed because the IRS is forced to devote its  
14 limited resources to identifying defendants' customers and recovering any erroneous  
15 refunds that are issued. Given these limited resources, identifying and recovering all  
16 revenues lost from defendants' preparation of false and fraudulent returns may be  
17 impossible.

18 16. For defendants' customers that it has identified, the IRS must review and  
19 respond to correspondence, request that they change their positions by filing correct  
20 returns, assess penalties, and audit them to determine the correct tax liability. This effort  
21 is required for each return filed.

22 17. In addition to the harm caused by their preparation of tax returns that  
23 understate their customers' tax liabilities, the Hills' activities undermine public  
24 confidence in the administration of the federal tax system and encourage noncompliance  
25 with the internal revenue laws.

26 18. Defendants' customers have been harmed because they have paid defendants  
27 fees in the form of a percentage of any refund received to prepare tax returns that  
28

1 understate their correct federal income tax liabilities. The customers then end up having  
2 to pay back taxes plus interest and penalties. Some customers could under some  
3 circumstances also face criminal prosecution.

#### 4 5 **Count I**

#### 6 **Injunction under I.R.C. § 7407 for violation of I.R.C. §§ 6694 and 6695**

7 19. The United States incorporates by reference the allegations in paragraphs 1  
8 through 18.

9 20. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin  
10 an income tax preparer from:

- 11 (a) engaging in conduct subject to penalty under I.R.C. § 6694 (which  
12 penalizes a tax return preparer who prepares or submits a return that  
contains an unrealistic position);
- 13 (b) engaging in conduct subject to penalty under I.R.C. § 6695 (which  
14 penalizes a tax return preparer who fails to furnish an identifying  
15 number or to keep a list of customers or copies of tax returns and  
16 turn over the list or copies to the IRS upon request);
- 17 (c) misrepresenting their experience or education as a tax return  
18 preparer; or
- (d) engaging in any other fraudulent or deceptive conduct that  
substantially interferes with the proper administration of the internal  
revenue laws,

19 if the court finds that injunctive relief is appropriate to prevent the recurrence of such  
20 conduct. Additionally, if the court finds that a preparer has continually or repeatedly  
21 engaged in such conduct, and the court finds that a narrower injunction (*i.e.*, prohibiting  
22 only that specific enumerated conduct) would not be sufficient to prevent that person's  
23 interference with the proper administration of the internal revenue laws, the court may  
24 enjoin the person from further acting as a federal income tax return preparer.

25 21. Defendants have prepared at least 253 federal income tax returns that included  
26 false or fraudulent statements regarding the excludibility of income from taxation. In so  
27 doing, defendants understated their customers' federal taxable income and asserted

1 positions which they knew or reasonably should have known were unrealistic under  
2 I.R.C. § 6694.

3 22. On these returns, defendants have failed to list their or their trade name as  
4 preparers and failed to list a related taxpayer ID on their customers' returns in violation of  
5 I.R.C. § 6695.

6 23. Defendants' actions, as described above, fall within I.R.C. § 7407(b)(1)(A)  
7 and (D), and are, thus, subject to being enjoined under I.R.C. § 7407.

8 24. If they are not enjoined, defendants are likely to continue to file tax returns  
9 that include false or fraudulent statements regarding the excludibility of income from  
10 taxation and to file tax returns that fail to list their or their trade name as preparer and fail  
11 to list a related taxpayer ID.

## 12 13 **Count II**

### 14 **Injunction under I.R.C. § 7408 for violation of I.R.C. § 6701**

15 25. The United States incorporates by reference the allegations in paragraphs 1  
16 through 24.

17 26. I.R.C. § 7408 authorizes a court to enjoin persons who have engaged in any  
18 conduct subject to penalty under I.R.C. § 6701 if the court finds that injunctive relief is  
19 appropriate to prevent the recurrence of such conduct.

20 27. I.R.C. § 6701 imposes a penalty on any person who prepares or assists in the  
21 preparation of a return, affidavit, or other document that the person knows or has reason  
22 to believe will be used in connection with any material matter arising under the internal  
23 revenue laws, and that the person knows would result in an understatement of tax  
24 liability.

25 28. Defendants prepare returns and other documents that they file for their  
26 customers. They, thus, know or have reason to believe, that the returns they prepared  
27

1 would be used in connection with material matters arising under the internal revenue  
2 laws.

3 29. Defendants know that the returns and other documents they prepare will result  
4 in understatements of their customers' tax liabilities because they knowingly omit wage  
5 income from the returns and they know that the internal revenue laws require wage  
6 income to be included on the returns.

7 30. If they are not enjoined, defendants are likely to continue to prepare returns  
8 understating their customers' tax liabilities.

9  
10 **Count III**

11 **Injunction under I.R.C. § 7402(a) for unlawful  
12 interference with the enforcement of the internal revenue laws**

13 31. The United States incorporates by reference the allegations of paragraphs 1  
14 through 30.

15 32. Section 7402 of the Internal Revenue Code authorizes a court to issue orders  
16 of injunction as may be necessary or appropriate for the enforcement of the internal  
17 revenue laws.

18 33. Defendants, through their actions as described above, have engaged in conduct  
19 that substantially interferes with the enforcement of the internal revenue laws.

20 34. The federal income tax returns that defendants prepared for their customers  
21 improperly and illegally understated their customers' federal income tax liabilities.

22 35. If defendants are not enjoined from engaging in fraudulent and deceptive  
23 conduct, such as preparing false or fraudulent tax returns, the United States will suffer  
24 irreparable injury from revenue losses caused by defendants.

25 36. While the United States will suffer irreparable injury if defendants are not  
26 enjoined, defendants will not be harmed by being compelled to obey the law.  
27  
28

37. The public interest would be advanced by enjoining defendants because an injunction, backed by the Court's contempt powers if needed, will stop their illegal conduct and the harm the conduct is causing to the United States Treasury.

38. If defendants are not enjoined, they are likely to continue to interfere with the enforcement of the internal revenue laws.

WHEREFORE, the plaintiff, the United States of America, respectfully prays as follows:

A. That the Court find that Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, have continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695 and have continually and repeatedly engaged in other fraudulent or deceptive conduct substantially interfering with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court find that Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, have engaged in conduct subject to penalty under I.R.C. § 6701, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

C. That the Court find that Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and I.R.C. § 7402(a);

D. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, and all those in active concert or participation with them from:



- (1) Acting as a federal tax return preparer or requesting, assisting in or directing the preparation and/or filing of federal tax returns for any person or entity other than themselves, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the Internal Revenue Service;
- (2) Understating customers' tax liabilities as prohibited by I.R.C. § 6694;
- (3) Failing to list a tax identification number or to sign tax returns for which either defendant is a tax-return preparer as prohibited by I.R.C. § 6695;
- (4) Engaging in activity subject to penalty under I.R.C. § 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that they know would result in an understatement of another person's tax liability; and
- (5) Engaging in other conduct that interferes with the administration and enforcement of the internal revenue laws.

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Beverly J. Hill and Darrell J. Hill within fifteen days to contact by United States Mail and, if an e-mail address is known, by e-mail, all persons for whom they prepared a federal tax return to inform them of the Court's findings concerning the falsity of the defendants' prior representations and enclose a copy of the permanent injunction against them;

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Beverly J. Hill and Darrell J. Hill to produce to counsel for the United States within fifteen days a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom they prepared federal tax returns or claims for refund since January 1, 2002;

G. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter an injunction requiring defendants and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, to remove within eleven days from their websites including, [www.getmytaxesback.com](http://www.getmytaxesback.com), all materials advertising their

1 services as income tax preparers or consultants and all false and fraudulent statements  
2 concerning the meaning and application of the internal revenue laws, including (but not  
3 limited to) any statements that income from wages is not includible in taxable income, to  
4 display prominently at the top of the first page of the website a complete copy of the  
5 permanent injunction in not less than 12-point type, and to maintain the website for one  
6 year with a complete copy of the Court's permanent injunction so displayed throughout  
7 that time;

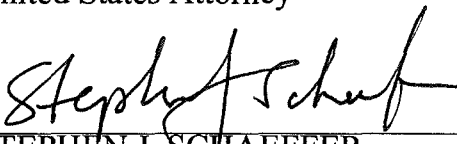
8 H. That the Court retain jurisdiction over Beverly J. Hill and Darrell J. Hill,  
9 individually and doing business as Superior Claims Management, and over this action for  
10 the purpose of enforcing any permanent injunction entered against defendants;

11 I. That the United States be entitled to conduct discovery for the purpose of  
12 monitoring defendants' compliance with the terms of any permanent injunction entered  
13 against them; and

14 J. That this Court grant the United States such other and further relief, including  
15 costs, as is just and equitable.

16  
17 DATED this 21st day of March, 2005.

18  
19 PAUL K. CHARLTON  
United States Attorney

20  
21   
22 STEPHEN J. SCHAEFFER  
Trial Attorney, Tax Division  
23 United States Department of Justice  
Post Office Box 7238  
24 Washington, D.C. 20044  
Missouri Bar #56833  
25 Telephone: (202) 307-2240  
Fax: (202) 514-6770

26 Attorneys for Plaintiff United States of America  
27